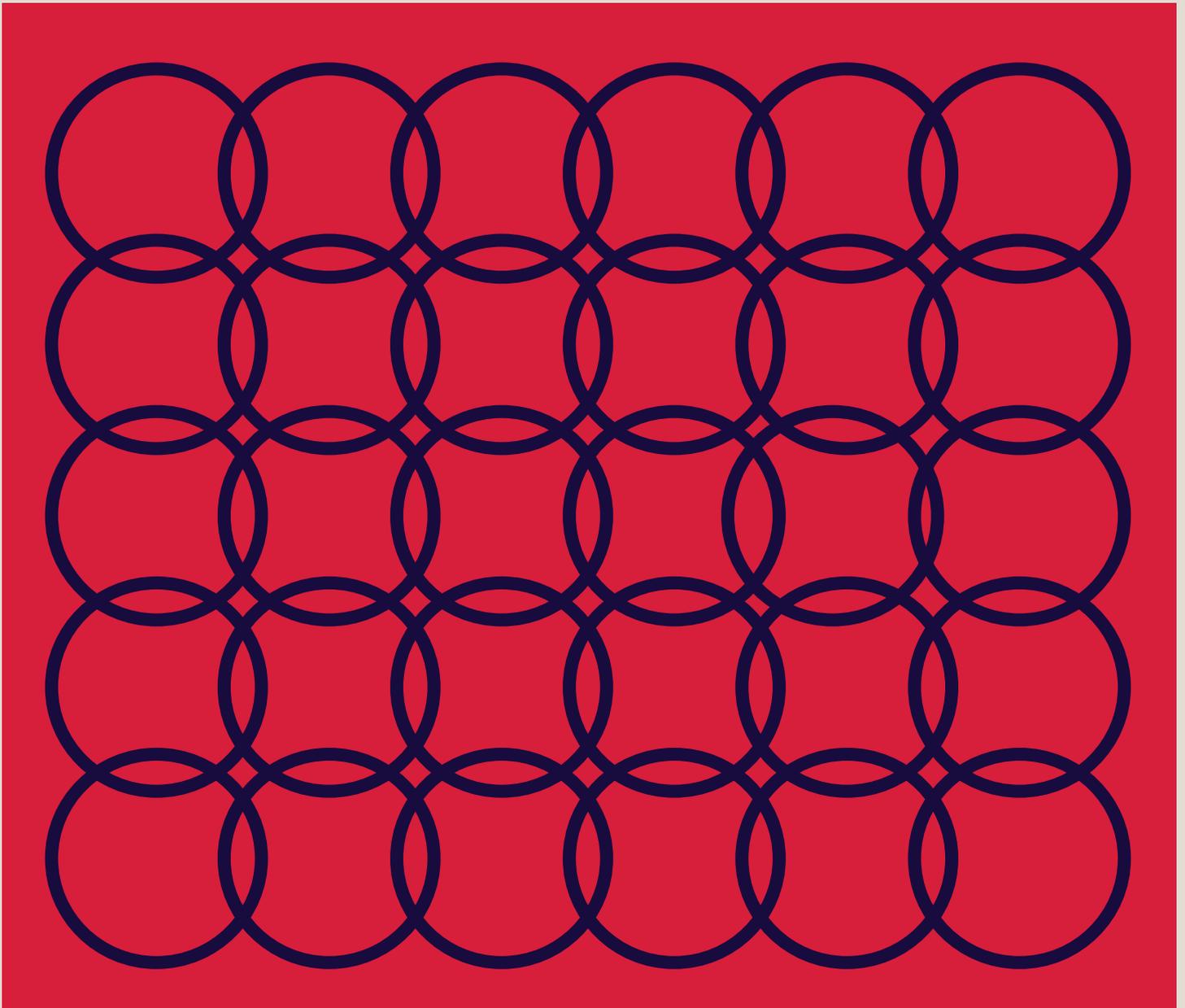

Two Worlds of Law: Public Experience of Contentious and Non-Contentious Justiciable Issues

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Two Worlds of Law: Public Experience of Contentious and Non-Contentious Justiciable Issues

Prof Pascoe Pleasence and Prof Nigel J Balmer

This paper draws on data from the pilot V-LULU survey to summarise and contrast public experience of contentious and non-contentious justiciable issues.

Non-contentious issues are justiciable issues where there was no perception of a dispute, most commonly involving buying and selling homes, estate planning, wills and probate. Contentious issues are justiciable problems involving some form of dispute, and encompass a far broader range of matters.

While previous surveys have historically focused on contentious matters, the pilot V-LULU considered a wide spectrum of both contentious and non-contentious justiciable issues. The survey's findings reveal fundamental differences in the nature, perception and resolution of these two types of issue.

Non-contentious issues are generally shorter, better understood, more confidently handled, and resolved through a narrower range of professional legal services – most notably private solicitors. They are often perceived as technical and transactional in nature, and assistance can look much like car maintenance: necessary, but routine, expert services that keep life running smoothly, and typically leave customers satisfied. In contrast, contentious issues are less often perceived as legal, are often intertwined with wider life problems, and are navigated within a more complex service ecosystem. They generate greater effort, yet less resolution, and are approached with greater uncertainty and less support. They are more akin to car crashes: they transcend the transactional and reach deep into people's lives, with assistance typically received viewed far less positively.

Recognising diversity - both in the nature of justiciable issues and in service provision - creates new opportunities to improve services, draw lessons across domains, and better tailor to varied needs.

Introduction

This briefing paper draws on data from the pilot Victorian Legal Understanding and Lawyer Use (V-LULU) survey, a representative online survey of 3,501 residents of Victoria that ran between 6th and 28th March 2024.¹ The paper sets out key differences in the Victorian public's experience of contentious and non-contentious 'justiciable' issues (or matters that raise legal issues, whether or not this is recognised by the relevant parties, and whether or not any related action involves the use of lawyers or legal processes).²

Legal needs surveys,³ such as the pilot V-LULU survey, have historically focused on contentious, challenging and welfare related issues.⁴ Consequently, they have left significant gaps in our understanding of how people experience and address many types of legal issue, including how they access, use and benefit from legal services in relation to non-contentious issues. Importantly, this historical focus has resulted in a limited understanding of the broader landscape of legal need. However, the pilot V-LULU survey addressed this gap by encompassing a wide spectrum of both contentious and non-contentious issues and by following up on both type of issue.

In total, pilot V-LULU survey respondents reported 16,010 issues: 13,432 contentious and 2,578 non-contentious. Of these, 1,965 contentious and 327 non-contentious issues were followed up in detail. The relatively small number of non-contentious issues followed up reflects both the fact that they were less common and that contentious issues were prioritised for follow-up, meaning non-contentious issues were followed up only if respondents reported no contentious issues.⁵

In the pilot V-LULU survey, the term 'non-contentious' does not directly correspond to the meaning traditionally employed by legal professionals, for whom it typically refers to specific non-litigious issues. Instead, in line with the survey's broader bottom-up, user-centred methodology, non-contentious issues are defined from the perspective of those experiencing them. Specifically, they are characterised as justiciable issues that do not involve any dispute, so are not framed as contentious or adversarial in nature. As can be seen in Table 1, this category includes a range of matters: housing issues related to conveyancing, mortgages, and planning; issues concerning personal affairs such as wills, powers of attorney and probate; some family-related issues, including divorce and adoption or fostering; and road accidents. To be categorised as non-contentious, in all cases there must be no perception of any element of dispute. These issues are broadly experienced as procedural and transactional. Their classification within the survey reflects peoples' experience of legal need, rather than doctrinal or professional categories.

1. Pleasence & Balmer (2025a), Pleasence, Balmer & Nokes (2025).
2. Genn (1999).
3. Legal needs surveys explore how individuals experience and respond to justiciable issues. They adopt a bottom-up approach, focusing on lived experience rather than being framed around legal technicalities, legal processes or legal services. Legal needs surveys inform policy by identifying barriers to justice, patterns of service use, and areas for systemic improvement in access to justice.
4. OECD/OSF (2019).
5. See Roy Morgan (2025).

Table 1 – Justiciable issues followed up by the pilot V-LULU survey

Type of issue	Contentious issues followed-up (person weight ⁶)		Contentious issues followed-up (problem weight)		Non-contentious issues (person weight)	
	Number	%	Number	%	Number	%
Housing (all)	625	31.8	694	35.3	157	48.1
Neighbours	145	7.4	229	11.7		
Housing (owned)	302	15.4	211	10.8	158	48.1
Housing (rented)	127	6.5	188	9.6		
Homelessness	51	2.6	65	3.3		
Family (all)	336	17.1	378	19.2	162	49.5
Divorce	89	4.5	100	5.1	15	4.5
Wills, probate, etc.	148	7.5	77	4.0	145	44.4
Domestic violence	48	2.4	152	7.7		
Family (other)	51	2.6	49	2.5	2	0.6
Other (excl. business)	963	48.6	828	42.2	8	2.4
Goods and services	166	8.4	90	4.6		
Debt	80	4.1	132	6.7		
Employment	107	5.4	82	4.2		
Injury	210	10.7	164	8.4	8	2.4
Fines	90	4.6	46	2.3		
Money (other)	75	3.8	84	4.3		
Government payments	72	3.7	56	2.8		
Public services	59	3.0	74	3.8		
Other issues	96	4.9	100	5.1		
Business	49	2.5	65	3.3		
TOTAL	1,965	100	1,965	100	327	100

6. For contentious issues, person level weighting was used when analysing individual problem types and problem level weighting when looking at all followed-up problems together. Both are presented as they illustrate the constituent problems in overall findings, and the problems available for analysis of individual problem types. Differences between the two reflect differences in relative likelihood of follow-up for different problem types. Non-contentious issues apply only a person-level weight. For more, see Pleasence & Balmer (2025a) and Roy Morgan (2025).

It is important to note that the non-contentious issues followed-up by the pilot V-LULU survey were not randomly selected from the non-contentious issues reported by respondents.⁷ Consequently, they cannot be assumed to be representative of such issues in general. However, the relative homogeneity of experience portrayed, and the fundamental and understandable difference in the pictures painted of non-contentious and contentious issue experience, suggest the findings are reasonably reliable.

The experience of non-contentious and contentious issues compared

Perceptions, issue resolution strategies and outcomes

By their nature, non-contentious justiciable issues represent a narrower and more defined set of issues than contentious justiciable issues, as they are tied to specific processes. They are also more often recognised, or characterised, as ‘legal’ by those facing them (48% of issues, compared to 29% of contentious issues). This reflects the formalised processes involved in matters such as conveyancing or probate, and the far greater engagement of the general public with the legal profession in relation to non-contentious issues (as evidenced by the pilot X-LULU survey, a variant of the pilot V-LULU survey focused only on lawyer use and conducted across Australia, outside Victoria).⁸ Linked to this, awareness of sources of help was also higher for non-contentious issues (91%) than for contentious ones (74%).

While pilot V-LULU survey respondents who faced non-contentious issues more often indicated they had understood their legal position at the time issues arose (94% of issues, compared to 69%) and were much more confident they could achieve good outcomes (93%, compared to 66%), they were nevertheless less likely to have believed they could deal with issues on their own (61%, compared to 75%). This suggests non-contentious matters of the type explored by the survey are perceived as technical and transactional in nature, with legal services seen as akin to other expert services.⁹

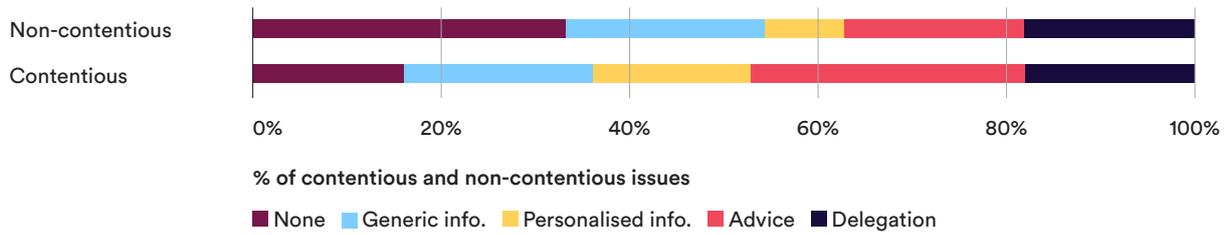
But, just as in other expert service domains, a significant minority of those facing non-contentious issues acted without seeking independent help (33%). Although this figure was higher than for contentious issues (16%), the figures were the same when it came to obtaining independent help. In the case of both non-contentious and contentious issues, 73% of respondents obtained independent help. The greater rate of success obtaining help when sought for those facing non-contentious issues again goes to the general association of the issues with legal services, particularly solicitors. Thus, those facing non-contentious issues were also more likely to obtain help from only one source (fewer wrong-starts and referrals) (58%, compared to 43%), and obtain help from solicitors (41%, compared to 21%). Financial professionals were also notable as a source of help in relation to non-contentious issues (13%), though the rate of use was similar to contentious issues (11%).

7. See Pleasence & Balmer (2025a) and Roy Morgan (2025).

8. Pleasence & Balmer (2025b). The X-LULU survey found that legal services were most often used in relation to wills, probate or powers of attorney, accounting for 31% of all legal service usage. A further 29% of legal service use was found to be accounted for by issues concerning housing or other property respondents owned.

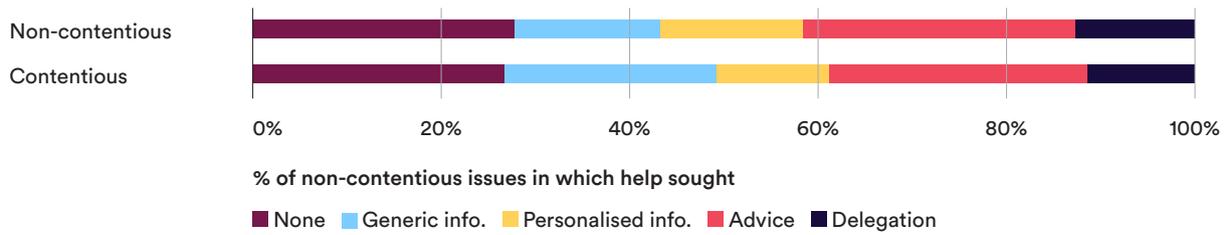
9. Such as those relating to financial transactions, medical consultations, or home or vehicle maintenance.

Figure 1 – Highest level of help sought for contentious and non-contentious issue



As can be seen from Figures 1 and 2, in general terms, the level of help sought differed between non-contentious and contentious issues, with non-contentious issues more associated with seeking generic information and delegation. However, perhaps suggesting that those facing non-contentious issues often discovered that there was more to dealing with them than first thought, non-contentious issues were ultimately associated with a higher level of personalised forms of help than contentious issues (57%, compared to 50%).

Figure 2 – Highest level of help obtained for contentious and non-contentious issues



Reflecting their more routine and transactional nature, pilot V-LULU respondents found non-contentious issues easier to deal with (88% compared to 51% for concluded issues; 54% compared to 34% for ongoing issues), with outcomes much more likely to be at least what had been hoped for (96% compared to 69%). They also concluded more quickly, with (concluded) non-contentious issues having taken a mean of 11 months to conclude, compared to two-and-a-half years for contentious issues.¹⁰

Suggesting a well-functioning service market, those who had faced non-contentious issues consistently reported that they had obtained all the expert help they had needed (96% compared to 63%).

10. This is a somewhat simplistic way to contrast duration, see Balmer et al., (2023) p.133 for a more advanced approach. Consequently, the likely difference between contentious and non-contentious may be even more pronounced (once ongoing problems are also included in analysis).

Use and experience of legal services

Forty-one per cent of users of legal services for non-contentious issues had previously used the same service, a higher percentage than for contentious issues (34%). In contrast, far fewer users of services for non-contentious issues had sought information about services online (28% compared to 59%) or initially identified the service they used using the Internet (19% compared to 34%).

Factors in initial choice of service were similar for both non-contentious and contentious issues, with skills and experience (particularly in the context of solicitors), method of communication, price and value for money all regularly mentioned.

When it came to communication preference, non-contentious issues were more often associated with a preference for face-to-face communication than contentious issues (45% compared to 30%). This translated into face-to-face communication also more often being a main method of communication in relation to non-contentious issues (35% compared to 27%). Email as a main method of communication was similar between the two issue types (43% compared to 41%).

Reflecting the characterisation of issues, the help clients obtained in relation to non-contentious issues was more often described as 'legal' in nature (87% compared to 78%). Services provided in relation to non-contentious issues were more likely to involve helping clients with paperwork and less likely to involve providing emotional support.

Across all services, clients were more likely to recall being told about prices in relation to non-contentious issues than contentious issues (92% compared to 80%), although there was no difference in the case of solicitors (94%). However, clients were less likely to recall being told about how to complain in relation to non-contentious issues than contentious issues (10% compared to 25%).

Looking at costs in detail, clients were far less likely to try to negotiate on price in relation to non-contentious issues (5% compared to 40%), yet far more likely to have paid the full cost themselves (69% compared to 22%; rising to 92% and 56%, respectively, in the case of solicitors), and to have paid a higher price (\$1,500 median, compared to \$1,200).

Client satisfaction

Client satisfaction was notably higher in relation to services for non-contentious issues than services for contentious issues (95% compared to 75%), although the gap was somewhat smaller in the case of solicitors (95% compared to 80%).

This very high satisfaction in relation to non-contentious issues raises the question of what distinguished those cases where clients were dissatisfied with the service they received.

Because client satisfaction was extremely high, just nine of the 238 respondents who provided data in relation to service use for concluded non-contentious issues reported having not being satisfied with the service received. Nevertheless, they were a very distinct group.

For example, five of the nine unsatisfied clients reported that they had not got everything they had needed from the service, compared to only around one in 30 satisfied clients.¹¹ Similarly, four of the nine did not get everything they had asked for, compared to around one in 20 satisfied clients,¹² and three of the nine got less than they were told they would get, compared to fewer than one in 20 satisfied clients.¹³

Turning to perceptions of value for money, those who were not satisfied were much more likely to have said the service did not provide value for money (5 of the 6 who paid themselves, compared to 3 of the 154 who paid for a service they were satisfied with).¹⁴

Overall client satisfaction was also closely related to satisfaction with perceived quality of communication. So, for example, the nine dissatisfied clients were significantly more likely to report dissatisfaction with the quality of communication concerning the services to be provided, costs to be charged, available options and progress made.¹⁵

Although falling short of statistical significance, the nine dissatisfied clients were also more likely to have recalled receiving no initial communication regarding likely duration, likely outcome, likely cost, the person within the organisation they would deal with, issues that might prevent a person acting for them, how to complain or indemnity insurance. Also, the issues dissatisfied clients faced more often concerned housing (8 of 9, compared to just half of satisfied clients), while there was no noticeable difference in satisfaction between different types of service.

11. A significant difference using a simple chi-squared test; $X^2_1 = 45.03$, $p < 0.001$.
12. $X^2_1 = 24.87$, $p < 0.001$.
13. $X^2_1 = 19.52$, $p < 0.001$.
14. $X^2_1 = 80.86$, $p < 0.001$.
15. $X^2_4 = 60.98$, $p < 0.001$, $X^2_4 = 53.95$, $p < 0.001$, $X^2_4 = 121.67$, $p < 0.001$ and $X^2_4 = 97.84$, $p < 0.001$ respectively.

Conclusion

The pilot V-LULU survey paints a picture of two markedly different worlds of law, when viewed from the user perspective. For Victorians dealing with non-contentious justiciable issues, the journey is shorter, clearer and more assured than for those embroiled in disputes. Non-contentious issues are more readily recognised as 'legal', respondents more often know where to find help, and more often feel confident of a good outcome. Those dealing with non-contentious issues also more often achieve what they aim for.

Several factors drive this divergence. Non-contentious matters are generally narrower, process oriented and transactional. Respondents treat services received to deal with them like any other specialist service, such as tax preparation and filing, medical consultations and vehicle maintenance. They expect to pay and engage professionals (often solicitors) quickly. The legal service market responds relatively efficiently: clients secure the help they need, face fewer referrals,¹⁶ and benefit from clear pricing. By contrast, contentious issues often intertwine with wider life problems, involve multiple advice pathways and carry greater uncertainty, lengthening resolution and diluting satisfaction.

The small minority who are dissatisfied with services received for non-contentious issues is distinct. Those who make it up feel they did not receive everything promised, view the service as poor value for money and cite inadequate communication about tasks, progress, costs and options. Their cases disproportionately concern housing transactions, suggesting that even routine processes can falter when expectations are not managed and information flows break down.

In short, non-contentious legal needs appear well served by a focused, transactional service ecosystem, whereas contentious problems expose users to complexity, delay and lower confidence. Further understanding, and transplanting, the elements that underpin success in the non-contentious sphere could help close the satisfaction gap across the broader landscape of everyday justice in Victoria and beyond.

16. And consequently less 'referral fatigue' (Plesence et al., 2004, p.77) where people become less likely to act on signposting/referral the more times they are directed elsewhere.

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